IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 254 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil judge?

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BIPINCHANDRA KESHAVLAL SHAH AND OTHERS
Versus
STATE OF GUJARAT AND ANOTHER

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Appearance :
MR MITESH R AMIN for the Petitioners
MR HL JANI, ADDITIONAL PUBLIC PROSECUTOR for Respondent No.1
MR YOGESH S LAKHANI for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 13/02/2007

ORAL JUDGMENT

1. Present petition is filed by 4 petitioners. It is stated by Mr.Mitesh R.Amin, learned Advocate for the petitioners that petitioner No.1 – Bipinchandra Keshavlal

Shah has expired. The same is taken note of.

2. Present revision application is filed challenging order dated 02.04.2004 passed by the learned Chief Metropolitan Magistrate, Ahmedabad below application Exh.6 in Criminal Case (Charge Sheet No.) 1464 of 2000.

3. Mr.Amin, learned Advocate for the petitioners with pains pointed out that Exh.6 is the application, wherein the original complainant has mixed up the subject matter of Inquiry Case No.214 of 1988 (M.Case No.8 of 1989 – present Criminal Case No.1464 of 2000) with Inquiry Case No.223 of 1986 (M.Case No.68 of 1986 – Criminal Case No.453 of 1989).

Learned Advocate for the petitioners submitted that the subject matter of Inquiry Case No.214 of 1988 is related to forgery, whereas subject matter of Inquiry Case No.223 of 1986 is about pledging the ornaments for taking loan/advance from the petitioners.

4. Learned Advocate for the petitioners submitted that the matter is old and after investigation, the police had filed the charge sheet and therefore, there is no question of any further investigation.

Learned Advocate for the petitioners could not point out as to what prejudice is going to be caused to the

petitioners if the order of the learned Chief Metropolitan Magistrate, Ahmedabad of further investigation is sustained with a clarification that the investigation should be restricted to the subject matter of Inquiry Case No.214 of 1988.

5. Learned Advocate for the petitioner is right that by filing an application in the subject matter of Inquiry Case No.214 of 1988 (Exh.6), a relief cannot be sought for further investigation in the subject matter of Inquiry Case No.223 of 1986.

6. Having heard the learned Advocates, Mr.Amin, for the petitioners, Mr.Lakhani, for respondent No.2 and Mr.H.L.Jani, learned Additional Public Prosecutor for respondent No.1 – State, it is deemed fit that this revision application is partly allowed with the following clarifications:

(I)The order of the learned Chief Metropolitan Magistrate, ordering further investigation by C.I.D. Crime, Gandhinagar Zone, Gujarat State is maintained, but it is clarified that the said further investigation should be only in the subject matter of Inquiry Case No.214 of 1988 and not beyond that.

(II)It is clarified that this order is not to be interpreted to mean that respondent No.2 has no right to file a similar application in the subject matter of Inquiry Case No.223 of 1988, if it is otherwise permissible under the law.

7. With the aforesaid clarifications, the revision application is allowed. Rule is made absolute.

(RAVI R.TRIPATHI, J.)

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